



STATEMENT OF EMERGENCY

30 KAR 5:060E

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, or welfare. This regulation is necessary pursuant to KRS 355.9-526 to ensure continued compliance with state law, to protect the public welfare by maintaining Uniform Commercial Code secured transaction filing procedures that are congruent with the actual filing practices of the Office of the Secretary of State, and are in harmony with the rules and practices of filing offices in other jurisdictions that enacted Article 9 of the Uniform Commercial Code and the International Association of Commercial Administrators (IACA) Model Administrative Rules for filing under that article. This emergency administrative regulation will be replaced by an ordinary administrative regulation once the ordinary regulation becomes effective. The ordinary administrative regulation is identical to this emergency administrative regulation.


Andy Beshear, Governor


Michael G. Adams, Secretary of State

1 Cabinet for General Government

2 Department of State

3 Office of Business Services

4 (Emergency Amendment)

5 30 KAR 5:060E. Search requests, ~~[and]~~ reports, and copies.

6 RELATES TO: KRS Chapter 355.9-519, 355.9-523, 355.9-525.

7 STATUTORY AUTHORITY: KRS 355.9-526(1).

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 355.9-526(1) requires the Secretary
9 of State to promulgate administrative regulations implementing KRS Chapter 355.9. This
10 administrative regulation establishes the procedures for public access to UCC records
11 ~~[requirements governing search requests and reports].~~

12 Section 1. ~~[General Requirements.]~~ The filing office~~[#]~~ shall maintain ~~[for public inspection]~~ a
13 searchable index of active records in the UCC i~~[f]~~nformation m~~[a]~~nagement s~~[y]~~stem. Active
14 rec~~[o]~~rds shall be retrievable by the name of the debtor or by the file number of the related initial
15 fi~~[n]~~ancing statement. ~~[Regardless of the retrieval method, the following shall be retrieved:~~

16 ~~(1) The initial financing statement; and~~

17 ~~(2) Each active record related to the initial financing statement.]~~

18 Section 2. ~~[Search Requests—Required Information.]~~ (1) A [Search] request[s] for certified search
19 results shall be submitted on a completed UCC Information Request Form UCC-11 together with
20 the fee in accordance with KRS 355.9-525(3). ~~[include the fol-lowing:]~~

21 ~~[(1) Name searched. A search request shall set forth the name of the debtor to be searched using~~
22 ~~designated fields for organization or individual surname, first personal name, and addi-tional~~
23 ~~names or initials]. A search request shall be processed using the data and designated fields exactly~~

as submitted, including the submission of no data in a given field[, without regard to the nature or character of the debtor that is subject of the search].

~~[(2) Requesting party. The search request shall include the name and address of the person to whom the search report is to be sent.]~~

~~[(3) Fee. The five (5) dollar fee shall be tendered, in accordance with KRS 355.9-525(3), if the request is in writing.~~

~~[(4) Search Logic. The request shall specify if a search methodology other than that described in Section 4 of this administrative regulation is to be applied in conducting the search. If methodology is not specified, the methodology described in Section 4 of this administrative regulation shall be applied.]~~

~~[Section 3. Search Requests—Optional Information.]~~ (a) A search request submitted under this subsection may include the following:

(i) a request for c[C]opies. ~~[The request may limit the copies of UCC records that would normally be provided with a search report by requesting that no copies be provided or that copies be limited to those UCC records that:~~

~~(a) Include a particular debtor address;~~

~~(b) Include a particular city in the debtor address;~~

~~(c) Were filed on a particular date or within a particular range of dates; or~~

~~(d) Include a particular secured party name.~~

(ii) ~~[2] Scope of search.]~~ A request~~[ing party may ask]~~ for ~~[a search that reports]~~ all unlapsed~~[active]~~ records retrieved by the search, rather than only active~~[unlapsed]~~ records ~~[retrieved by the search]~~.

(b) ~~[3] [Mode of delivery.]~~ A search request submitted under this subsection may specify a method~~[mode]~~ of delivery for search results. This request shall be honored if the requested

method[mode] is acceptable to [made-available-by] the filing office, and provided by the requesting party together with all prepaid [requisite] fees[, under KRS 355.9-525(3), are tendered].

(2) A request for uncertified search results may be submitted online through the filing office website on the webpage designated by the filing office for that purpose.

(3) A request for search results by secured party name may be submitted on a Request for Secured Party Name Search Form.

~~Section 3[4]. [Search Methodology.]~~ (1) Search results shall be produced by the application of search logic to the name ~~[presented to the filing office]~~ provided by the requesting party~~[r. Human judgment shall not play a role in determining the results of the search].~~

~~(2) [Standard search logic.]~~ The requirements established in this subsection shall describe the filing office's standard search logic and shall apply to all searches ~~[unless the search request specifies that a nonstandard search logic be used].~~

(a) There shall not be a limit to the number of matches that may be returned in response to the search criteria.

(b) A distinction shall not be made between upper and lower case letters.

(c) The character "&" (the ampersand) shall be deleted and replaced with the word "and" each place it appears in the name.

(d) Punctuation marks and accents shall be disregarded. For the purposes of this administrative regulation, punctuation and accents include all characters other than the numerals zero (0) through nine (9) and the letters A through Z, in any case, of the English alphabet.

(e) The word "the" at the beginning of an organization debtor name shall be disregarded.

(f) All spaces shall be disregarded.

(g) For first personal name and additional names or initials of individual debtor names, initials shall be treated as the logical equivalent of all names that begin with those initials, and first personal name and no additional names or initials shall be equated with all additional names or initials. For example, a search request for "John A. Smith" shall cause the search to retrieve all filings against all individual debtors with "John" or the initial "J" as the first personal name, "Smith" as the surname, and with the initial "A" or any name beginning with "A" in the additional names or initials field. If the search request is for "John Smith" (first personal name and surnames with no designation in the additional names or initials field), the search shall retrieve all filings against individual debtors with "John" or the initial "J" as the first personal name, "Smith" as the surname, and with any name or initial or no name or initial in the additional names or initials field.

(h) If the name being searched is the surname of an individual debtor name without any first personal name or additional names or initials provided, the search shall retrieve from the UCC information management system all financing statements with individual debtor names that consist of only the surname.

(i) The following words, phrases, or abbreviations shall be disregarded from the end of an organization name to the beginning of that organization name until an unlisted word, phrase, or abbreviation appears [as noise words]:

1. "agency";
2. "association";
3. "assn";
4. "associates";
5. "assoc";

1 6. "assc";
2 7. "attorney at law";
3 8. "attorneys at law";
4 9[8]. "bank";
5 10[9]. "national bank";
6 11[10]. "na";
7 12[11]. "business trust";
8 13[12]. "charter";
9 14[13]. "chartered";
10 15[14]. "company";
11 16[15]. "co";
12 17[16]. "cooperative";
13 18. "coop";
14 19. "corporation";
15 20[17]. "corp";
16 21[18]. "credit union";
17 22[19]. "cu";
18 23[20]. "federal credit union";
19 24[21]. "fcu";
20 25[22]. "federal savings bank";
21 26[23]. "fsb";
22 27[24]. "general partnership";
23 28[25]. "gen part";

1 29[26]. “gp”;
2 30[27]. “incorporated”;
3 31[28]. “inc”;
4 32[29]. “limited”;
5 33[30]. “ltd”;
6 34[31]. “ltee”;
7 35[32]. “limited liability company”;
8 36[33]. “lc”;
9 37[34]. “llc”;
10 38[35]. “limited liability limited partnership”;
11 39[36]. “llp”;
12 40[37]. “limited liability partnership”;
13 41[38]. “lp”;
14 42. “limited partnership”;
15 43[39]. “lp”;
16 44[40]. “medical doctors professional association”;
17 45[41]. “mdpa”;
18 46[42]. “medical doctors professional corporation”;
19 47[43]. “mdpc”;
20 48[44]. “national association”;
21 49[45]. “partners”;
22 50[46]. “partnership”;
23 51 [47]. “professional association”;

- 1 52[48]. “prof assn”;
- 2 53[49]. “pa”;
- 3 54. “professional service corporation”;
- 4 55. “professional service corp”;
- 5 56. “prof service corporation”;
- 6 57. “prof service corp”;
- 7 58[50]. “professional corporation”;
- 8 59[51]. “prof corp”;
- 9 60[52]. “pc”;
- 10 61[53]. “professional limited liability company”;
- 11 62[54]. “pllc”;
- 12 63. “public benefit corporation”;
- 13 64. “public benefit corp”;
- 14 65. “pbc”;
- 15 66. “public benefit”;
- 16 67[55]. “real estate investment trust”;
- 17 68[56]. “registered limited liability partnership”;
- 18 69[57]. “rllp”;
- 19 70[58]. “savings association”;
- 20 71[59]. “sa”;
- 21 72[60]. “sole proprietorship”;
- 22 73[61]. “sp”;
- 23 74[62]. “spa”;

1 ~~75[63.kkk].~~ “trust”;

2 ~~76[64].~~ “trustee”; and

3 ~~77[65].~~ “as trustee”.

4 (j) After using the requirements outlined in paragraphs (a) through (i) of this subsection to modify
5 the name being searched, the search shall retrieve from the UCC ~~i[I]nformation~~ m[M]an[-]agement
6 s[S]ystem all unlapsed records, or, if requested by the searcher, all active records, that pertain to
7 financing statements with debtor names that, after being modified as provided in ~~[Section 5 of]~~
8 this administrative regulation, exactly match the modified name being searched.

9 ~~[Section 5. Changes in Standard Search Logic. If the filing office changes its standard search logic~~
10 ~~or the implementation of its standard search logic in a manner that will alter search results, the~~
11 ~~filing office shall provide public notice of the change.]~~

12 Section 4[6]. ~~[Search Responses.]~~ (1) A ~~r[R]~~esponse[s] to a search request shall include the
13 following:

14 (a[1]) ~~[Copies.]~~ A list [Copies] of all UCC records retrieved by the search[, ~~unless only limited~~
15 ~~copies are requested by the searcher. Copies shall reflect any redaction of personal identifying~~
16 ~~information required by law.~~

17 ~~(2) Introductory information. A filing officer shall include the following information with a UCC~~
18 ~~search response:]~~;

19 (b[a]) ~~[Filing office identification.]~~ Identification of the filing office responsible for the search re-
20 sponse;

21 (c[b]) ~~[Unique search report identification number. Unique number which identifies the search~~
22 ~~report;~~

23 (e) ~~Report date and time. The date and time the report was generated;~~

1 ~~(d) Through date and time.~~ The date and time at, or prior to, which a UCC record was filed with
2 the filing office in order for it to be reflected on the search;

3 ~~(d[e]) [Certification date. The certification date and time for which the search is effective;~~
4 ~~[(f)] Scope of search;~~
5 ~~[(g)] Search logic used;~~
6 ~~(h) Search logic disclaimer language;~~

7 ~~(i) Name provided.] The n[N]ame searched[as provided by searcher];~~
8 ~~[(j) Search string. Normalized name as provided by Section 4 of this administrative regulation;~~
9 ~~(k) Lien type searched. UCC or other type of documents searched;] and~~

10 ~~(e[l]) [Copies.] Digital images [Copies] of all UCC records retrieved[revealed] by the search in~~
11 ~~.pdf or .tiff format[and requested by the searcher]. Any images not available may be requested~~
12 ~~from the filing office[Copies of UCC records shall not be available for electronic search requests].~~

13 ~~(2[3]) [Report.] In addition to the information provided under subsection (1) of this section, a~~
14 ~~response to a request for certified[The] search results[report] shall contain the following in a~~
15 ~~Standard Search Certificate and Report:~~

16 ~~(a) [Identification. Identification of the filing office responsible for the search report;~~
17 ~~(b) Search report identification number.] A certificate [Unique] number [assigned under subsection~~
18 ~~(2)(b) of this section]; [and]~~

19 ~~(b) The date on which the search was certified by the filing office; and~~

20 ~~(c) The scope of the search, indicating whether the requesting party has requested active records~~
21 ~~or only unlapsed records. [Identification of financing statement. Identification of each initial~~
22 ~~financing statement, including a listing of all related amendments, correction statements, or filing~~
23 ~~officer notices, filed on or prior to the through date corresponding to the search criteria, including~~

~~whether the searcher has requested active records or only unlapsed records. Financing statement~~

~~information shall include the following:~~

~~1. The initial financing statement file number;~~

~~2. The date and time the initial financing statement was filed;~~

~~3. The lapse date;~~

~~4. The debtor name that appears of record;~~

~~5. The debtor address that appears of record;~~

~~6. The secured party name that appears of record;~~

~~7. The secured party address that appears of record;~~

~~8. An indication of type of each amendment, if any;~~

~~9. The date and time each amendment, if any, was filed;~~

~~10. The amendment file number of each amendment, if any;~~

~~11. The date and time a correction statement, if any, was filed; and~~

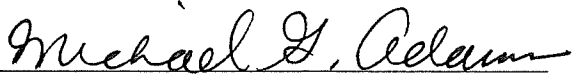
~~12. The date and time a filing officer statement, if any, was filed.~~

(3) A response to a request for a secured party name search shall include only active records and shall not be certified.

Section 5. UCC records and data shall be provided to the public by the following methods:

(1) Copies of individually identified documents shall be provided in digital .pdf format at no charge unless paper copies are specifically requested. Paper copies shall be assessed at the rate of \$0.50 cents per page. A request for paper copies shall include a mailing address where the requested copies shall be mailed. Copies may be certified for an additional fee of five dollars.

- 1 (2) Bulk data related to UCC filings may be obtained through subscription as directed by the
- 2 website of the Office of the Secretary of State and shall be made available under the terms and
- 3 conditions of the subscriber agreement.


Michael G. Adams

Secretary of State

Commonwealth of Kentucky

APPROVED BY AGENCY: October 21, 2021

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on December 28, 2021, at 9:00 a.m. EST, at Office of the Secretary of State. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until December 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael R. Wilson, Director, Office of Business, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, phone (502) 782-7422, fax (502) 564-5687, email michael.wilson@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
30 KAR 5:060E

Contact Person: Michael R. Wilson, Director, Office of Business Services, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, phone (502) 782-7422, fax (502) 564-5687, email michael.wilson@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes filing office procedures related to UCC search requests, reports, and copies.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 355.9-526 by establishing clarity and uniformity with regard to UCC search requests, reports, and copies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the authorizing statutes by establishing filing office rules consistent with KRS Chapter 355, Article 9, and model UCC regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of Article 9 of KRS Chapter 355 by establishing clearly defined procedures with regard to UCC search requests, reports, and copies.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment modifies existing language to harmonize regulatory language with filing office procedures, authorizing statutes, KRS Chapter 355, Article 9, and model UCC regulations. The amendment also establishes when a search may be certified and the cost, if any, for copies of individually identified documents.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to accurately reflect filing office practices, to accurately reflect UCC index search logic, to accurately reflect search report contents, to comply with KRS Chapter 13A, and to describe how copies may be provided and the corresponding costs, if any.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statute by clarifying procedures related to UCC search requests, reports, and copies of individually identified UCC documents.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides clarity and certainty with regard to UCC search requests, reports, and copies of individually identified UCC documents.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects the Office of the Secretary of State and any individual, business, organization, or governmental entity that conducts a search of UCC records.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to

take to comply with this administrative regulation or amendment: The Office of the Secretary of State already utilizes many of the procedures identified in this regulation. Users of services referenced will not have to take any additional action, but they may experience either a fee elimination or fee increase depending on whether they request electronic or paper copies of UCC documents. Individuals identified in question (3) may need to familiarize themselves with the contents of this regulation if they are conducting a UCC records search.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment eliminates two current fees for obtaining copies of a UCC record in an electronic format, i.e., a \$.10 per page fee for regular copies and a \$.050 per page fee for certified copies. The vast majority of current requestors are seeking regular or certified copies in an electronic format. These individuals or entities will see a fee decrease. Entities or individuals that request non-certified paper copies of individual UCC documents will see a fee increase from \$.10 per page to \$.050 per page.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This regulation provides uniformity and certainty with regard to UCC search requests, reports, and obtaining copies of individually identified UCC documents. Electronic copies of individually identified documents will be made available at no cost to the requesting party.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be minimal to no cost to implement this administrative regulation. The Office of Secretary of State currently utilizes these procedures or can implement them with minimal to no additional agency cost.

(b) On a continuing basis: There will be minimal to no costs to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: If any costs were to be identified, existing appropriations and fund sources for the Office of the Secretary of State would be utilized.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: An increase in fees or funding will not be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation amendment eliminates two current fees for obtaining copies of a UCC record in an electronic format, i.e., a \$.10 per page fee for regular copies and a \$.050 per page fee for certified copies. The vast majority of current requests are seeking regular or certified copies in an electronic format. Entities or individuals that request non-certified paper copies of individual UCC documents will see a fee increase from \$.10 per page to \$.050 per page.

(9) TIERING: Is tiering applied? Tiering was not applied in this administrative regulation because any potential tiering would be inconsistent with the article it implements and model UCC regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 30 KAR 5:060E
Contact Person: Michael R. Wilson, Director, Office of Business Services
Phone Number: (502) 782-7422
Email: michael.wilson@ky.gov

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Office of the Secretary of State and units, parts, or divisions of state or local government that conducts a search of UCC records.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is required by KRS 355.9-526.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any additional revenue for state or local governments during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? There will be minimal to no additional cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be minimal to no additional cost to administer this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. No cost is anticipated beyond what has been historically allocated to this agency or to other state and local agencies.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:



COMMONWEALTH OF KENTUCKY
OFFICE OF THE SECRETARY OF STATE
MICHAEL G. ADAMS

October 21, 2021

Emily Caudill
Regulation Compiler
Legislative Research Commission
700 Capital Avenue
Frankfort, Kentucky 40601

RE: 30 KAR 5:060E

Dear Ms. Caudill:

This letter accompanies 30 KAR 5:060E as documentary evidence to satisfy the requirements of KRS 13A.190(1)(a) and (8)(a)(3).

KRS 355.9-526 (1) requires the Secretary of State to promulgate administrative regulations to implement Article 9 of the UCC after consulting the most recent version of the model rules promulgated by the International Association of Corporate Administrators (IACA), while also taking into consideration the regulations and technology used in other jurisdictions.

The Office of the Secretary of State has conducted a careful review of its internal filing procedures, the UCC regulations and technology adopted in other jurisdictions, KRS Chapter 13A, and the IACA model rules. That review has concluded that much of IACA model rule language conflicts with drafting rules established in KRS Chapter 13A.

Specifically, the IACA model rules adopt an informal style of regulatory language and restate statutory language in violation of KRS 13A.120(2)(e) and (i), as well as KRS 13A.222(4) (prohibiting the restatement of statutory requirements, regulations contradicting statutory requirements, prohibitions against ambiguous language, and prohibitions against the use of particular words.) Where possible, the IACA language was retained or modified to reflect the apparent intent.

This regulation retains the core provisions of the relevant IACA model rules; it is consistent with other UCC jurisdictions; and it satisfies KRS Chapter 13A. It is promulgated as an emergency regulation to maintain that certainty and prevent an imminent threat to public welfare and to satisfy the statutory requirements of KRS 355.9-526.

Michael R. Wilson

A handwritten signature in black ink that reads "Michael R. Wilson".

Executive Director, Office of Business Services
Office of the Secretary of State